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December 7, 1999

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 - 12TH Street, S.W.  
Washington, D.C. 20554

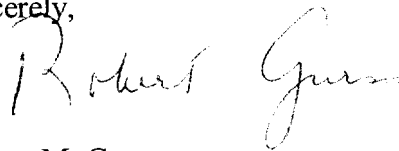
Re: APCO International  
FCC Dkt. No. 96-86

Dear Ms. Salas:

Enclosed are two copies of a letter submitted to Kathleen Wallman, Chair of the Public Safety National Coordinating Committee, for filing in regard to the above-referenced matter. Copies of the letter have been submitted to the Commissioners and other Commission staff.

I have also enclosed an extra copy of the letter which I would appreciate your stamping and returning to me in the enclosed self-addressed envelope. Thank you for your assistance.

Sincerely,



Robert M. Gurss

Encs.

Ltrdc.bas

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December 7, 1999

Kathleen Wallman, Chair  
Public Safety National Coordinating Committee  
c/o Wallman Strategic Consulting, L.L.C.  
555 12th Street, NW  
Washington, DC 20004

Dear Ms. Wallman:

This letter is submitted on behalf of the Association of Public-Safety Communications Officials-International, Inc. (APCO). On October 8, 1999, Martin W. Bercovici, counsel for AASHTO, FCCA, IAFC, and IMSA,<sup>1</sup> submitted a letter to you and to the Chief of the FCC's Wireless Telecommunications Bureau (with copies to each FCC Commissioner) opposing the possible National Coordinating Committee (NCC) recommendation that the FCC adopt the ANSI/TIA/EIA 102 Common Air Interface (CAI) and Vocoder standards (a.k.a. Project 25 Phase I standards) as interoperability standards for the 700 MHz band. On behalf of APCO, I responded to Mr. Bercovici's letter on October 28, 1999, as APCO was concerned that the letter failed to recognize the benefits of the Project 25 standards to the public safety community. On November 17, 1999, Mr. Bercovici submitted another letter to you and to the FCC on this issue.

APCO believes that the NCC and its Technical Subcommittee, not a letter writing duel between counsel, is the appropriate forum at this time to address the very important issues surrounding the selection of a digital public safety standard for the 700 MHz band. As you know, the NCC's Technical Subcommittee held a public meeting in New York City on November 18 (pursuant to prior public notice) to discuss the standards options and to make recommendations to the NCC. The Subcommittee reached a broad "consensus" in favor of the ANSI/TIA/EIA 102 standards. AASHTO (represented by Mr. Larry Miller) was the only user

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1. American Association of State Highway and Transportation Officials, Forestry-Conservation Communications Association, International Association of Fire Chiefs, Inc., and the International Municipal Signal Association.

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group that spoke in opposition to this action. For whatever reason, two of the other organizations on whose behalf Mr. Bercovici submitted his correspondence (IAFC and IMSA) appeared not even to be present at this important Technical Subcommittee meeting.

APCO is reluctant to respond directly to the issues raised in Mr. Bercovici's latest correspondence, as those matters should have been discussed at the NCC meetings, rather than being made the subject of attorney correspondence to you and to the FCC. However, APCO remains concerned that this latest round of correspondence may create misinformation in the official record of the NCC and the FCC's Docket 96-86. Therefore, APCO offers the following brief, and hopefully final, reply on these issues. Further discussion of these matters should take place within the NCC process.

The November 17 letter argues at length that "the task of the NCC" is not "merely to recommend an existing equipment standard" such as Project 25 Phase I. However, while the NCC is obviously not limited to selecting Project 25 Phase I, that is certainly within its discretion. Indeed, the Commission has noted the potential benefits of relying upon the efforts of other ANSI-accredited Standards Developers (ASDs) such as TIA, including recognition of *existing* standards:

allowing the NCC to make use of the work of other ASDs would offer the benefits of increased efficiency and improved use of NCC resources. The NCC could take advantage of these options in several ways, *including by reviewing and recommending existing American National Standards....* The ability to employ one or more of these approaches would potentially save time by allowing the NCC to build on standards work already accomplished....allowing the NCC to build on standards work cooperatively with existing ASDs with expertise in the area of public safety communications would have the effect of conserving the committee's limited resources....

*Memorandum Opinion and Order on Reconsideration in WT Docket 96-86, FCC 99-85 (released May 4, 1999) (hereinafter "MO&O"), at para. 11 (emphasis added).*

Mr. Bercovici's November 17 letter then attempts to respond to five specific statements made in my correspondence of October 28. Unfortunately, those responses merely add confusion and inaccurate information to the record. Each is briefly addressed below:

- The letter attacks our statement that Project 25 equipment is already offered by multiple vendors, by emphasizing that there is currently only one vendor of trunked Project 25 systems. There may be only one vendor currently offering trunked systems, but

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considering the relative “newness” of the trunking standard and the generally small marketplace for trunked systems, this portion of the marketplace would be expected to be slow in developing. APCO has every reason to believe that additional vendors will join this segment of the market in the near future. Vendors will enter the marketplace in a manner and to an extent they believe most advantageous for their individual companies, as suggested by the number of vendors currently offering Project 25 infrastructure for conventional systems and subscriber units for both conventional and trunked systems. The advantage of ANSI/TIA/EIA standards, such as Project 25, is that “new” vendors cannot be “locked out of the marketplace” by the holders of the essential IPR.

- The letter disputes the cross-band interoperability benefits of Project 25, by suggesting that such interoperability would require a multi-band radio. However, as with current FM systems, digital interoperability across frequency bands is likely to be achieved by cross-band patching through infrastructure, not via expensive multi-band radios. In a digital environment, cross-band infrastructure patching of voice communications will be further complicated *unless* there are standard vocoders used in both bands. To that extent, common use of the Project 25/TIA 102 Vocoder in digital radios across bands will greatly enhance interoperability.
- The November 17 letter challenges APCO’s assertion that the Project 25 Phase I standard meets the Commission’s 9.6 kbps/12.5 kHz efficiency requirement. The letter suggests (without citation) that this is a “data standard” not a “standard for the voice path.” Yet nowhere in WT Docket 96-86 does the Commission limit this efficiency standard to “data.” Perhaps the statement in the letter reflects a misunderstanding of the term “data rate” in a digital context, which refers to the rate that bits of information are transmitted, regardless whether those bits are ultimately translated to text or (via a vocoder) to voice. APCO concedes that the Project 25 Phase I standard does not provide for “one voice per 6.25 kHz.” While this additional efficiency standard may be attainable in the future, APCO believes (and discussion within the Technical Subcommittee supports) that issues of timeliness and technical adaptability of the standard to other technologies are overriding issues that support immediate adoption of the Phase I standard.
- The November 17 letter also attempts to challenge our assertion that the NCC has the option of selecting Project 25 Phase I either as a permanent or “interim” standards. As noted above, the Commission has made clear that the NCC may adopt existing ANSI standards, presumably including ANSI/TIA/EIA-102, which is the *only existing* suite of ANSI standards for public safety digital equipment. Mr. Bercovici’s letter appears to suggest that public safety agencies should wait for the development of a new 6.25 kHz standard, since the 700 MHz band “is not required to be cleared of television broadcast

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operations, and thus fully available to public safety users, until December 31, 2006.” However, Mr. Bercovici completely overlooks the fact that some or all of the 700 MHz public safety band is available today in many parts of the county (including many metropolitan areas). Public safety agencies in those areas need to use that spectrum now, but cannot do so until equipment is available for purchase, which will not occur until the Commission adopts a digital interoperability standard. As APCO explained in its pending Petition for Reconsideration in WT Docket 96-86, that is the single most important reason why the NCC and the Commission must move quickly to resolve the standards issue. Waiting for new 6.25 kHz standards is simply not a viable option.

- The November 17 letter again attempts to address the supposed issue of “spare bits.” APCO believes that the attachments to my October 28 correspondence (memoranda from NCC Technical Subcommittee Chairman Glen Nash) fully and accurately describe why the use of so-called “spare bits” is irrelevant to interoperability between radios containing and operating on the interoperability mode.

Finally, the November 17 letter revisits the issue of intellectual property rights (IPR), indicating concern about repeating the unfortunate circumstances in 800 MHz analog trunking, where there are incompatible proprietary systems. What the November 17 letter fails to recognize is that the 800 MHz trunking “standards” were *not* ANSI standards and, therefore, not subject to any licensing provisions. Indeed, those analog trunking “standards” (referred to as Project 16) were operational, not technical, specifications. Thus, manufacturers were able to develop proprietary systems that were mutually incompatible, yet “compliant” with the operational specifications. The Project 25 standards, in contrast, are highly technical specifications that have been approved through the ANSI-certified TIA process. This includes an obligation that IPR holders license technology on fair, reasonable, and non-discriminatory terms (Project 25 also has its own IPR licensing requirement which covers both patents and copyrights). The November 17 letter then notes that the Commission, in the *MO&O*, has adopted an additional requirement that IPR holders certify to the NCC that they will license their technology “under reasonable terms and conditions that are demonstrably free of any unfair discrimination.” However, the November 17 letter incorrectly suggests that this additional requirement indicates that the Commission “appears unwilling to leave” issues related to IPR to “private civil actions.” The more accurate reading of the Commission’s *MO&O* is that the additional certification requirement is intended to address “intellectual property rights other than patent rights...such as rights granted by copyright” which are not necessarily covered by the ANSI patent policy. *MO&O* at para. 19.

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APCO hopes that this letter is helpful in correcting the record before both the NCC and the Commission. APCO continues to urge that these bodies proceed quickly and deliberately to adopt the ANSI/TIA/EIA-102 standards for the 700 MHz interoperability channels.

Respectfully submitted,



Robert M. Gurss  
Counsel for APCO

cc:

The Honorable William Kennard  
The Honorable Susan Ness  
The Honorable Michael Powell  
The Honorable Harold Furchtgott-Roth  
The Honorable Gloria Tristani  
Thomas Sugrue, Chief WTB  
Dale Hatfield, Chief OET  
D'Wana Terry, Chief, Public Safety & Private Wireless Division  
Michael Wilhelm, Public Safety & Private Wireless Division  
Magalie R. Salas, Secretary  
Martin W. Bercovici, Esquire